

☐ EXPEDITE  
☐ No hearing is set.  
☐ Hearing is set:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Judge/Calendar: \_\_\_\_\_

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THURSTON COUNTY

WASHINGTON FAMILIES STANDING  
TOGETHER, and ANNE LEVINSON,

Plaintiffs,

v.

SECRETARY OF STATE SAM REED, in  
his official capacity, and PROTECT  
MARRIAGE WASHINGTON,

Defendants.

No. \_\_\_\_\_

DECLARATION OF MONA SMITH

I, Mona Smith, declare:

1. I am an attorney licensed to practice in Washington, California and  
Massachusetts. I have been practicing for 25 years. I have personal knowledge of the facts  
set forth in this declaration and am competent to testify thereto.

2. I volunteered on behalf of Washington Families Standing Together  
("WAFST") to observe the Secretary of State ("SOS") verify signatures on the petitions for  
Referendum 71, a referendum brought by a group called Protect Marriage Washington

DECLARATION OF MONA SMITH – 1

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1 ("PMW") seeking to place Engrossed Second Substitute Senate Bill 5688 ("the Act") on the  
2 general election ballot.  
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5 3. I served as one of the lead observers for WAFST during the signature  
6 verification process for Referendum 71 in Olympia, Washington. I was present as an  
7 observer on most days from the beginning of the process until August 19, 2009. I was also  
8 present as an observer during the last several days of the process from August 28, 2009 until  
9 September 1, 2009. I typically served as an observer from between 7:30 and 8:00 a.m. until  
10 4:30 p.m.  
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12  
13 4. I observed all stages of the verification process. I observed the initial  
14 checkers, the "master checkers" (who provide an additional level of review for rejected  
15 signatures), and the SOS personnel who conducted the "recent registration" check (which  
16 provided a third level of review for most rejected signatures). I also observed the SOS  
17 supervisors who were present during the signature verification process. As an observer, I  
18 was instructed that I could witness the signature verification process and convey concerns to  
19 an SOS supervisor, but could not talk to signature checkers. A true and correct copy of the  
20 "Observer Guidelines" that I received from the SOS is attached as Exhibit A.  
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23 5. After sorting and organizing the petitions into volumes, the SOS began the  
24 process of verifying the signatures on July 31, 2009. To verify a signature, a checker would  
25 use his or her computer terminal to locate a voter in the statewide voter registration  
26 database. I was told by SOS employees that the checker should reject the signature as "not  
27 found" if the individual was not found in the voter registration database.  
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30 6. If the voter was found in the voter registration database, I was told by SOS  
31 employees that the checker should then determine whether the signature on the petition  
32 matched the voter's signature in the database, using the signature verification standards set  
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DECLARATION OF MONA SMITH - 2

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1 forth in WAC 434-379-020. If they matched, I was told by SOS employees that the  
2 signature should be added to the count, subject to removal only where SOS software  
3 determined that a single voter signed more than one petition.  
4

5  
6 7. I was told by SOS employees that signatures rejected by initial checkers as  
7 "not found" or "no match" were subject to an additional layer of review by a "master  
8 checker." Master checkers reviewed the initial determination for each rejected signature. If  
9 a master checker located a voter in the voter registration database whose signature was  
10 originally rejected, and determined that the signature on the petition matched the signature  
11 on the voter registration record, the signature was rehabilitated and added to the count of  
12 accepted signatures. *See also* [http://wei.secstate.wa.gov/osos/en/initiativesReferenda/Pages/](http://wei.secstate.wa.gov/osos/en/initiativesReferenda/Pages/R71FrequentlyAskedQuestions.aspx)  
13 [R71FrequentlyAskedQuestions.aspx](http://wei.secstate.wa.gov/osos/en/initiativesReferenda/Pages/R71FrequentlyAskedQuestions.aspx).  
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15  
16 8. About two weeks into the verification process, the SOS announced that it had  
17 determined that it had been using a version of the statewide voter registration system that  
18 only contained registrations through June 19, 2009. The SOS addressed this by adding yet  
19 another layer of review for rejected signatures, by having initial and master checkers  
20 continue to use the outdated database, and then having all signatures rejected as "not found"  
21 by master checkers reviewed by a new team of reviewers using the "live" voter registration  
22 database. The live voter database was not limited to the period of June 19 – July 25; it was  
23 continually updated as new voters register for as many days as SOS continued to review  
24 signatures so that voters who registered in August were included.  
25

26  
27 9. I am informed and believe that new checkers employed by the SOS to verify  
28 signatures on Referendum 71 petitions received 2 hours of training or less on how to  
29 compare signatures. After new checkers were trained, there appeared to be little to no  
30 quality control of their work, other than master checkers reviewing rejected signatures. For  
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DECLARATION OF MONA SMITH – 3

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1 example, contracted workers who were hired as initial checkers were elevated to master  
2  
3 checkers with only a few days of experience in reviewing signatures.  
4

5 10. I observed less experienced initial checkers accepting signatures that a  
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7 supervisor or master checker would likely not accept. For example, I observed an initial  
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9 checker accept a signature that had a totally different slant from the registered signature on  
10  
11 file, where a master checker/supervisor indicated that signature slants do not significantly  
12  
13 change and that the SOS would not accept a signature with a different slant than the one on  
14  
15 file.  
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17 11. I also observed the SOS supervisor telling checkers on more than one  
18  
19 occasion that she would accept the signature even though it did not match because the  
20  
21 individual was probably rushed when signing the petition.  
22

23 12. I saw and recorded checkers accepting many signatures that I believed should  
24  
25 not have been accepted, including but not limited to the instances detailed below:  
26

- 27 (a) checkers accepted signatures where multiple signatures on the same petition  
28 sheet had the same handwriting, as if one person signed for multiple people;  
29
- 30 (b) checkers accepted signatures without conducting a comparison of the  
31 characteristics of the two signatures as required by WAC 434-379-020;  
32
- 33 (c) checkers accepted signatures that did not match the signature in the voter  
34 registration database even where the address on the petition did not match the  
35 address in the voter registration database;  
36
- 37 (d) checkers accepted signatures where the names, signatures and/or addresses  
38 were crossed-out, either in the same ink color used by the signer or blacked  
39 out;  
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DECLARATION OF MONA SMITH – 4

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- 1 (e) checkers accepted signatures where the signatures on file in the voter  
2 registration database were spelled differently than the names on the petition;  
3  
4 (f) checkers accepted signatures where the signatures on file in the voter  
5 registration database had different middle initials than the names on the  
6 petition; and  
7  
8 (g) checkers accepted signatures on the petition when they speculated that the  
9 names on file in the voter registration database were entered incorrectly.  
10

11 13. Furthermore, I saw no consistency in the signature verification process from  
12 one checker to another. In many cases, an initial checker rejected a signature as "not found"  
13 or "no match" to a registered voter signature. A master checker on review / second check  
14 would rehabilitate the rejection and accept the signature. On a random third check, a  
15 checker would determine a signature should not have been rehabilitated and changes it back  
16 to a rejected signature.  
17

18 14. The SOS supervisor allowed checkers to check on their own work as initial  
19 and master checkers on the live voter database third check until I complained about it.  
20

21 15. I also observed that the observers from PMW violated the rules the SOS had  
22 created for observers. The SOS initially allowed only two observers for each side to observe  
23 the initial and master checkers, but later allowed each side to have three observers. When  
24 the SOS implemented the live database check, it allowed each side to have up to five and  
25 then six observes. However, PMW sometimes had more observers on the floor than  
26 allowed.  
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28 16. The PMW observers also often interacted with the initial checkers, master  
29 checkers, or supervisors, telling the checkers how to check and pointing out errors. While  
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DECLARATION OF MONA SMITH – 5

71718-0001/LEGAL16817013 1

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1 the PMW observer was told not to question the checkers, the master checker or supervisor  
2 would nevertheless check the signature brought to their attention by the PMW observer.  
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4  
5 17. During the verification process, observers from WAFST were at a significant  
6 disadvantage compared to observers from PMW. WAFST observers need to try to observe  
7 as many possible decisions by initial checkers to accept signatures, since those decisions are  
8 not subject to any additional review. At any given time, there were up to 15 initial checkers  
9 in the room, along with additional master checkers. WAFST's three observers could only  
10 observe a fraction of the decisions made by initial checkers under these circumstances. By  
11 contrast, PMW observers only need to be concerned about rejected signatures, which are all  
12 reviewed by a small number of master checkers. As a result, PMW observers could focus  
13 their attention almost entirely on the small number of master checkers.  
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25 **I declare under penalty of perjury under the laws of the**  
26 **State of Washington that the foregoing is true and correct.**  
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29 EXECUTED at Seattle, Washington, this 3<sup>rd</sup> day of September,  
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32 2009.  
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MONA SMITH

DECLARATION OF MONA SMITH – 6

**EXHIBIT A**

## MEMORANDUM

To: Observers of Initiative Petition Checks

From: Teresa Glidden, Initiative Program Supervisor

Subject: Guidelines for Observers

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The initiative process is an important constitutional right of the citizens of Washington - their power to directly enact or amend the law. As you know, our office plays a major role in the process when we validate petition signatures, for only petitions with a sufficient number of validated signatures may be certified for placement on the ballot.

You are welcome to observe our validation process. To ensure that our responsibilities for the initiative check are carried out properly, we have established certain guidelines. We hope the guidelines will help clarify our mutual roles in the petition checking process.

1. All observers must sign in and out with our office supervisor.
2. Observers must be identified with name tags provided by our office.
3. Observers may not directly question checkers regarding decisions made about a specific signature. Where an observer questions the action of any checker with respect to any given signature, they may record the location i.e., the volume, page and line number of that signature. Questions regarding signature decisions should be directed by the observer to the attention of the check supervisor as soon as possible.
4. Observers may make no record of any names or addresses on the petition.
5. Observers may not handle petitions, or computer systems. They may, however observe any aspect of the canvassing procedure.



6. Observers are requested to minimize the physical disruption caused by their presence. Please do not hover or crowd the checker. Observers must not distract the checker with their behavior.
7. Observers should be aware that the checkers have been instructed to work exactly as if no observers are present. While our office will cooperate whenever feasible, we will not alter or change our procedures to facilitate the observation of the check. Please do not ask that a checker slow down, speed up or otherwise alter his or her work for the observers.
8. Our office reserves the right to request a specific observer to leave or cease observing, where the integrity or efficiency of the check is compromised, or where these guidelines are not being followed.
9. The number of observers is subject to limitation by our office if, in our judgment the integrity or efficiency of the check is compromised. Our general policy is to allow no more than two observers from the sponsors and two observers from the opposition to be present at any time.

Enclosed with this memo is a copy of the "Facts to Keep in Mind When Checking Signatures," which we give to our signature checkers.

Thank you in advance for your cooperation. With your help, our office can carry out its duties effectively, properly and efficiently.

###

## Facts to Keep in Mind When Checking Signatures:

1. Addresses need not match. People frequently move and forget to update their voter registration.
2. The name need not be signed exactly the same – only with sufficient similarity so that you are reasonably certain that the same person signed both signatures.
3. Many registration cards contain old signatures. The age of the original signature must be taken into consideration when comparing signatures.
4. Occasionally, a married woman might sign her name as “Mrs. John Doe”; in this case you might first search the registration records to see if she is registered that way. If that doesn't work, you can search by the address. If you find a signature that matches, you can accept it. She may not have updated her voter registration yet. If the address matches, and the first name and initial (if available) match, the signature can be accepted.
5. If people only print their name on the petition sheet, rather than signing it, it may still be accepted if they have also printed their name on their registration card, and the printing matches.
6. People frequently have hyphenated names. Check both last names if it is not immediately found.
7. Be sure to check for nicknames. A person may have used his formal name on his registration card, but uses a nickname to sign a petition sheet. Examples:

William – Bill or Wm	Richard – Rick or Dick
John – Jack	Charles – Chuck or Chas
Robert – Rob or Bob	Margaret – Maggie, Meg, Margo or Peggy
James – Jim	Elizabeth – Liz, Liza, Betty or Beth
8. Look carefully at names with ‘on’ or ‘en’ endings. It might be Anderson or Andersen. Other letters that can be confusing are ‘i’, ‘e’, ‘o’, ‘a’, and ‘u’. Try different possibilities.

9. Following are the standards for signature verification from *WAC 434-379-020*:

A signature on a petition sheet must be matched to the signature on file in the voter registration records. The following characteristics must be utilized to evaluate signature to determine whether they are by the same writer:

- a) Agreement in style and general appearance, including basic construction, skill, alignment, fluency, and a general uniformity and consistency between signatures.
- b) Agreement in the proportions of individual letters, height to width, and heights of the upper to lower case letters.
- c) Irregular spacing, slants or sizes of letters that are duplicated in both signatures.
- d) After considering the general traits, agreement of the most distinctive unusual traits of the signatures.

A single distinctive trait is insufficient to conclude that the signatures are by the same writer. There must be a combination or cluster of shared characteristics. Likewise, there must be a cluster of differences to conclude that the signatures are by different writers.

10. Finally, remember that many of the people you will be working with have been checking signatures for many years, and they will be happy to help you at any time.

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